BQA *Quarterly Information Update*

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Wisconsin Assisted Living Provider Profiles on the Internet

In the Bureau of Quality Assurance's (BQA) continuing efforts to make information more readily accessible to all of our stakeholders, as well as consumers, we are pleased to announce that assisted living provider profiles will be available on the Department of Health and Family Services' internet website by the beginning of September 2005. Provider profile information for the following facility types will be available: Community Based Residential Facilities (CBRFs), Adult Family Homes (AFHs), Residential Care Apartment Complexes (RCACs) and Adult Day Care Centers (ADCs).

The assisted living facility profiles are designed to provide an overview of the results of BQA inspections. When comparing facilities for quality of care and safety, consumers should keep in mind that the profiles do not contain information on facility size or the complexity of health care needs of its residents/tenants. A profile should be considered a "snapshot" of the facility, not the complete picture. Information gathered from an inspection measures whether the facility meets the minimum standard for a particular set of requirements at the time of that inspection.

The assisted living provider profile contains a three-year history of surveys, complaint investigations, and enforcement actions. In addition, a Glossary of Terms provides consumer-friendly information about the data and terminology found on the profile. Profiles can be accessed via: **http://dhfs.wisconsin.gov/bqaconsumer/ResidOpts/seek.htm.**

If there are questions or concerns about the accuracy of information found on a facility profile, please contact the appropriate Bureau of Quality Assurance Regional Office via the following website: **http://dhfs.wisconsin.gov/bqaconsumer/AssistedLiving/ALSreglmap.htm**.

Please Keep BQA Informed of Address Updates

From time to time, various BQA staff are contacted and told that people are getting mail from the bureau that should not go to them. This is a very common problem in state service. If this is happening to you, please contact your assigned certification or licensing specialist. It is also important that you contact this person with changes in facility information. Please review the Contact information for your provider type via **http://dhfs.wisconsin.gov/rl_DSL/index.htm**.

When you call about unwanted mail, it is helpful to let us know what specific piece of mail you received. **Hang on to the envelope too** as it may be that another agency generated the label.

For the most up-to-date listing for your facility or program, please review the BQA provider directories at **http://dhfs.wisconsin.gov/bqaconsumer/directories.htm**.

BQA Numbered Memos May-July 2005

Memo	Title	Providers Affected
05-006	National Institute on Aging Study: The Sexual Abuse of Vulnerable Adults in Institutions	Adult Family Homes, Community Based Residential Facilities, Facilities for People with Developmental Disabilities, Hospitals, Nursing Homes, Residential Care Apartment Complexes
05-007	Variance for Requirements for Certified Outpatient Psychotherapy Clinics	Community Substance Abuse Providers, Certified Outpatient Mental Health Clinics , Hospitals
05-008	Smoking Policy in Nursing Homes	Nursing Homes
Upcoming Memos:		
Nurse Aides and Topical Medication Administration (for Nursing Homes)		
Variance of Chapter HFS 124, Wisconsin Administrative Code: Authentication of Physician Orders (for Hospitals)		

Access these memos via **http://dhfs.wisconsin.gov/rl_DSL/Publications/BQAnodMems.htm**, or from individual providers' publications pages via **http://dhfs.wisconsin.gov/rl_DSL/**.

The following BQA memos have been **made obsolete**:

- 04-013, “Provider Profiles Available on the Internet” (see article)
- 01-050, “Regional Office Move” – Some address information no longer correct, other information already available on the Internet.

National Provider Identifier (NPI) - CMS

The Centers for Medicare and Medicaid Services (CMS) Administrator announced a May 23, 2005 start for the National Provider Identifier (NPI). The NPI is the standard unique health identifier for health care providers that was adopted by the Secretary of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996. The Administrator's announcement letter:

- Informs health care providers about the NPI;
- Describes three ways to obtain an NPI; and
- Gives them guidance as to what they should do once they have obtained their NPI.

The letter, which also provides informational contacts and resources can be viewed at **www.cms.hhs.gov/hipaa/hipaa2/npi_provider.asp**. Medicare providers can find the article about NPI Implementation at **www.cms.hhs.gov/medlearn/matters/mmarticles/2005/SE0528.pdf**. CMS also issued Survey & Certification letter 05-30 on the subject at **www.cms.hhs.gov/medicaid/survey-cert/sc0530.pdf**. CMS plans to issue quarterly reminders to health care providers to obtain their NPI.

The NPI will replace the current health care provider identifiers for standard health care transactions. Your health plan representative will instruct you as to when you may begin using the NPI in standard transactions. All HIPAA-covered entities, except small health plans, are mandated to begin using the NPI on May 23, 2007. Small health plans have until May 23, 2008. For additional information, and to complete an application, visit **https://nppes.cms.hhs.gov** on the web. Health care providers may also call 1-800-465-3203 to request a paper application.

An instructional web tool, called the NPI Viewlet, is now available for viewing at **www.cms.hhs.gov/medlearn/npi/npiviewlet.asp,** and under "HIPAA Latest News" at **www.cms.hhs.gov/hipaa/hipaa2** on the CMS website. This tool provides an overview of the NPI and a walk-through of the application, as well as live links to the NPPES website where the learner can apply for an NPI. This tool is designed for all health care providers. In the near future, you will also be able to access the viewlet at **https://nppes.cms.hhs.gov**.

Medicare Fraud Alerts

The Wisconsin Department of Health and Family Services has received Fraud Alerts from the Centers for Medicare and Medicaid Services concerning “Home Health Agency Capping” and “Staffing agencies representing unlicensed personnel as Registered Nurses and/or Licensed Practical Nurses.” These Alerts are being relayed to the provider community for informational purposes only.

Home Health Agency Capping

Capping is the practice of illegally exchanging monetary and/or tangible goods, including offering and/or obtaining kickbacks for services rendered. A number of Medicare home health providers have been identified as billing for home health services for the same beneficiary population as other home health agencies, durable medical equipment providers, physician, and laboratories. However, investigation has found that the beneficiaries either are not homebound, the services are not medically necessary, and/or the home health services are not being provided to these beneficiaries. This practice may also be spreading to hospice providers.

The home health scheme involves home health agencies (HHAs) obtaining beneficiary Medicare Health Insurance (HIC) numbers and using them to bill the Medicare Program for services they did not render. There are several ways in which these numbers are being obtained, including the paying of beneficiaries (referred to as "Capper benes") for their HIC numbers. It is suspected that other business entities and individuals are involved in the scheme, including nurse registries and billing service companies that create falsified medical records. As a result, claims submitted to the Affiliated Contractors (ACs) are made to appear legitimate and have been processed accordingly.

The following describes this alleged fraud scheme in more detail:

- Beneficiaries are being moved among multiple HHAs (ping-ponging), where there are identified connections between owners, administrators, and nurse registries.
- HHA financial records reflect persons and organizations (including nursing registries) in payroll accounts as receiving undocumented payments from general cash accounts. At times, payments are noted to be recurring monthly and are usually for identical amounts. There is no documentation/agreement provided to support each transaction.
- Reimbursement maximization due to achieving "outlier claims" status. One segment of the beneficiary population targeted is diabetic patients. An inflated number of visits per patient is recorded, thereby increasing Medicare reimbursement. However, it has been found that billings include twice-daily insulin administration for beneficiaries who are not on insulin.
- Nurse registries are complicit with HHAs in schemes, such as paying beneficiaries for dropping their complaints to the PSC, and in the sharing of "Capper" beneficiary Medicare numbers.
- Falsification of records may include forging physician signatures and paying physicians for their signatures on home health Plans of Care, the use of "canned" medical records, or home health services that were allegedly provided that have no relation to previous home health services or diagnoses on other bill types.
- Beneficiaries who reside in board and care/assisted living facilities may be targeted for home health care services inappropriately. Beneficiaries are found not to be homebound, and are receiving services that are not medically reasonable and necessary. Many of the owners, staff, and "house physicians" are active participants in the scheme.
- HHAs are not staffed or operating in accordance with the Code of Federal Regulations Conditions of Participation in Medicare.

Staffing agencies representing unlicensed personnel as Registered Nurses and/or Licensed Practical Nurses

Some staffing agencies are representing unlicensed personnel as Registered Nurses (RN) and/or Licensed Practical Nurses (LPNs). The staffing agencies are employing recent immigrants with some nursing experience in foreign countries, primarily the Philippines, and representing them to hospice agencies as licensed RNs/LPNs. The hospice agencies are aware that the contracted staff is not licensed, but continue to use the staff as RNs/LPNs.

Many of the LPNs are providing many hours of continuous care services to hospice beneficiaries. The bulk of the continuous care billed is provided by the unlicensed LPNs. Contracted nurses can be used to supplement the hospice nurses employed directly, but contracted nurses should not be the sole providers of continuous nursing care. The hospice agency must have procedures in place to verify that all staff providing services meet state and federal licensing requirements.

In addition, some of the staffing agencies have Medicare provider numbers and are billing as home health agencies.

If you have questions regarding these CMS Medicare Fraud Alerts, or information about such practices in Wisconsin, contact TrustSolutions, LLC, Donna L. Casey, RN, BSN, Fraud Information Specialist, phone (414) 226-6085, E-mail **donna.casey@trustsolutionsllc.com**. The street address for TrustSolutions, LLC is 401 West Michigan St., Milwaukee, WI 53203.

Nursing Homes – Revisions to State Operations Manual, Appendix PP, Urinary Incontinence, Tags F315 and F316

CMS has issued Transmittal 8, State Operations Manual, amending Appendix PP regarding F tags F315 and F316 for urinary incontinence. Please review the transmittal at **www.cms.hhs.gov/manuals/pm_trans/R8SOM.pdf**. Please note that this transmittal rescinds Transmittal 7 on the same subject.

Hospices - Issues

Range of Visits

Questions have arisen regarding frequency of client visits, and whether a range of visits is acceptable. Federal regulation 42 CFR 418.58(c) and Wisconsin Administrative Code HFS 131.42(3)(b) require that the plan of care states in detail the scope and frequency of services needed to meet the patient's and family's needs.

A specific range of visits for each service is acceptable. Identifying a specific range for visits may ensure that the most appropriate level of service is provided to meet the needs of the patient. If fewer visits than the upper limit of the range are provided, clinical record documentation must

support the patient-specific circumstances that guided the agency's decision to provide fewer than the upper limit ordered.

The minimum number within the range should be at least one, unless there is patient-specific criteria for no visits during a given time frame.

The number of visits must be provided within the range based on the patient's or family's needs, not staff availability. Staff availability is not an acceptable reason for changing the frequency of physician ordered services.

Dietary Counseling Services Within the Medicare Hospice Program

CMS is allowed to waive the requirement that hospices provide dietary counseling directly. These waivers are available only to an agency that is located in a non-urban area, and that can demonstrate it has been unable, despite diligent efforts, to recruit appropriate personnel. CMS will use the requirements for the nursing services waiver found at 42 CFR 418.83(a)(3) in determining that a hospice has made a diligent effort.

For more information on this waiver ability, please see BQA memo 00-029 and its attachment at **http://dhfs.wisconsin.gov/rl_DSL/Hospice/Hospice00-029.htm.**

Provision of Hospice Services to a Resident of a Community-Based Residential Facility (CBRF)

There have also been questions related to hospice services in a CBRF. Below are three sample scenarios:

Scenario #1: A hospice patient in a CBRF is receiving Oxycontin 20mg BID. At 3:00 a.m., the patient complains of increased pain. The CBRF staff calls the hospice. The hospice calls the physician and he orders an increase in the Oxycontin to 30mg BID. Since this is a medication the patient is already on, can the CBRF staff accept the verbal order to increase the medication from the hospice nurse over the phone? Also, can the CBRF initiate that order without having a signed order on the chart at that time, even though the hospice nurse and physician will fax those orders later in the a.m.?

Response to Scenario #1: Transfer of the information to the CBRF would be considered a verbal order. Wisconsin Administrative Code HFS 83.33(3)(a)1 states that the CBRF must have a written order and that changes in a prescription order shall be communicated promptly.

Based on this regulation, several factors need to be taken into consideration. For example: When was the last home visit conducted? Has pain control been a concern? How frequently have the pain medications been adjusted? What pain management interventions are evident on the jointly developed plan of care? Using professional judgement and taking all factors of any given situation into consideration, the hospice nurse must make a decision.

In this case, it may be appropriate for the hospice nurse to provide dosage instructions by phone to the CBRF staff and for the staff to administer the medication. Clinical record documentation must support the decision and actions taken. The change would then be communicated to the CBRF later in the morning via fax or on-site hospice visit. If the CBRF has a nurse, he/she should take the verbal order related to a dosage increase.

Scenario #2: A hospice patient in a CBRF is on Oxycontin 20mg BID. At 3:00 a.m., the patient complains of increased pain. The CBRF staff calls hospice. The hospice calls the physician and receives an order for a new medication (Roxanol 20 mg q 1hr prn). The hospice nurse calls the pharmacy to deliver the Roxanol. Can the CBRF staff accept the verbal order from the Hospice nurse on a new medication with the understanding that the order will be faxed later in the a.m.? Can the CBRF staff initiate giving the new Roxanol order with instruction from the hospice nurse without a visit being made if they verbalize understanding on how to give the new medication? If a hospice visit is made, can the CBRF staff accept the order that the hospice nurse writes on their chart, although it is not yet signed by the physician?

Response to Scenario #2: If the order for the medication is called into the pharmacy, and the pharmacy delivers the medication to the CBRF, the label on the bottle would constitute the written order. Clinical record documentation must support the medication change noted on the treatment label and hospice instructions related to the medication. Based on the reported change in patient condition of increased pain, an on-site visit and assessment by the hospice nurse may be warranted.

Scenario #3: A hospice patient in a CBRF is on Oxycontin 20mg BID. At 3:00 a.m., the patient complains of a new symptom, nausea. The CBRF staff calls hospice, hospice calls the physician, and the physician orders Compazine 10mg q 6hrs prn for the nausea. Can the CBRF initiate this new order after being instructed by the hospice nurse by phone, when the order will not be faxed until 7:00 a.m., and without a hospice nursing visit being done?

Response to Scenario #3: In this scenario, a new order is initiated, so the pharmacy would need to be involved and the label on the bottle would constitute the written order. Clinical record documentation must support the medication change noted on the treatment label and hospice instructions about the medication. However, based on the fact that the patient is complaining of a new symptom, an on-site visit and assessment by the hospice nurse would be warranted.

If the CBRF has a nurse on duty at night who could assess or assist with the assessment of the reported changed in patient condition/need, the hospice could use that information as a basis for plan of care decisions. If the CBRF does not have a nurse on staff to assess or assist with the assessment of the reported change in patient condition/need, a home visit would be warranted.

Latest CMS Survey & Certification Letters

Below is a list of Survey and Certification (S&C) Letters distributed by CMS during the last quarter. Letters pertaining only to state agency operations are omitted. All S&C Letters can be viewed as PDF files at the Internet site **www.cms.hhs.gov/medicaid/survey-cert/letters.asp**. If you have questions about individual letters, contact Susan Hespen of BQA at (608) 266-0582, or e-mail **hespesj@dhfs.state.wi.us**.

Title	Number	Date
Interaction of the Emergency Medical Treatment and Labor Act (EMTALA) and the Born-Alive Infants Protection Act of 2002	05-26	4/22/05
Renewal of Deeming Authority for Hospitals Accredited by the American Osteopathic Association (AOA), and Home Health Agencies Accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and the Community Health Accreditation Program (CHAP).	05-28	5/12/05
Multiple Providers - The National Provider Identifier (NPI)	05-30	6/9/05
Critical Access Hospital (CAH) Requirement for Doctor of Medicine/Doctor of Osteopathy (MD/DO) Review of Medical Records for Mid-Level Practitioners	05-32	6/9/05
Hospitals, Ambulatory Surgical Centers, Nursing Homes, Religious Non-Medical Health Care Institutions, Programs of All-Inclusive Care for the Elderly (PACE) Facilities, Critical Access Hospitals, Intermediate Care Facilities for the Mentally Retarded – Adoption of a New Fire Safety Amendment for the Use of Alcohol Based Hand Rubs (ABHRs)	05-33	6/9/05
Hospitals - Suspension of Processing New Provider Enrollment Applications (CMS-855A) for Specialty Hospitals	05-35	6/9/05
Assigning Provider Identification Numbers to Extension Locations of Outpatient Physical Therapy or Outpatient Speech Pathology Service Providers	05-36	6/22/05
Clarification of Life Safety Code Survey Issues in Nursing Homes	05-38	7/14/05

Administrative Rules Update

HFS 83 – "Community Based Residential Facilities"

The HFS 83 re-write workgroup continues to work with an advisory committee, consisting of various providers and association representatives, to develop the proposed rules for Chapter HFS 83. The workgroup is in the process of completing the Rule Summary and will submit the summary along with the draft rule to the DHFS Office of Legal Council for review by the end of July 2005. The Department plans to submit a draft rule-making order to the Legislative Council Rules Clearinghouse in September 2005. You may view the Statement of Scope of proposed rules on the Wisconsin Administrative Rules web-site at **http://adminrules.wisconsin.gov** for more information.

Administrative Rules Updates - continued

HFS 124 – "Hospitals"

The Wisconsin Administrative Register published the Statement of Scope of proposed rules to amend Chapter HFS 124 on April 1, 2005. The Department is planning to update ch. HFS 124 to eliminate overly prescriptive regulations, clarify the Department's enforcement authority, and bring ch. HFS 124 into line with Medicare by requiring compliance with federal minimum standards of operation, maintenance and patient care. For more information, you may view the Statement of Scope on the Wisconsin Administrative Rules web-site at **http://adminrules.wisconsin.gov**.

HFS 132 - "Nursing Homes"

The Department is proposing to update ch. HFS 132 to reflect current standards of practice, enhance the Department's authority relating to the initial licensing of nursing homes, and remove provisions that duplicate applicable federal requirements. The proposed rules are the subject of a Statement of Scope published in the Wisconsin Administrative Register on April 15, 2005. For more information, you may view the Statement of Scope on the Wisconsin Administrative Rules web-site at **http://adminrules.wisconsin.gov**.

HFS 133 – "Home Health Agencies"

The Department is in the process of drafting rules to amend ch. HFS 133. On October 15, 2004, the Wisconsin Administrative Register published the "Statement of Scope" of proposed rules that are the subject of the ch. HFS 133 rule order. For more information, you may view the Statement of Scope on the Wisconsin Administrative Rules web-site at **http://adminrules.wisconsin.gov**.

HFS 148 – "Cancer Drug Repository Program"

The Cancer Drug Repository Administrative Rule was published June 1, 2005 and became effective July 1, 2005. Providers can find copies of these rules on the Wisconsin Administrative Rules web-site at **http://adminrules.wisconsin.gov**.

For additional information, you may view the BQA Cancer Drug Repository website at **http://dhfs.wisconsin.gov/bqaconsumer/cancerdrugreposy.htm**.